

Patent Application Serial No.: 10/686,149
Response to Office Action mailed August 30, 2005
Page 5

REMARKS

I. STATUS OF THE CLAIMS

Claims 33-41 are pending in the present application. Claims 39-41 are rejected. Applicant thanks Examiner Rinehart for indicating that claims 33-38 are allowed.

II. CLAIM REJECTIONS UNDER 35 U.S.C. § 112

Claims 39 and 40 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In particular, claim 39 is rejected as lacking a written description for the recited step, "diverting a third batch of fly ash to a processing unit before processing of the second batch of fly ash is completed." Claim 40 is rejected as lacking a written description for the recited step, "combusting the third batch in a combustion unit before combusting of the second batch is complete."

In determining whether the written description requirement has been satisfied, the fundamental factual inquiry is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, applicant was in possession of the invention as now claimed. *See, e.g., Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64, 19 USPQ.2d 1111, 1117 (Fed. Cir. 1991). The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) for the disclosure to satisfy the description requirement. MPEP 2163.02.

The patent application as originally filed provides ample support for claims 39 and 40. In particular, the specification provides:

The system generally includes a feed source of fly ash in flow communication with an *array of processing units* in which the residual carbon in fly ash is combusted. A diverter diverts batches of fly ash to *two or more combustion units*.

(p. 5, lines 4-8) (emphasis added). The system diverts each batch of fly ash to be processed to an available processing unit, for example, a combustion unit, to provide a substantially continuous or semi-continuous process.

Patent Application Serial No.: 10/686,149
Response to Office Action mailed August 30, 2005
Page 6

The fly ash generally is diverted to each process unit in batches for batchwise processing in each combustion unit. However, the system and method can include a sufficient number of batch process units to allow the feed and/or the collection of processed fly ash to be carried out on a substantially continuous or semi-continuous basis.

(p. 5, lines 12-16). Where multiple processing units are provided, no particular sequence for using the various processing units is required.

The collected ash batches or charges are then directed by the diverter valve *toward one of the combustion units.*

(p. 10, lines 14-15) (emphasis added). In one example process described in the specification, at least four combustion units are used to process the various batches of fly ash.

A first batch of fly ash can be diverted to the first combustion unit 110, and then a second batch of fly ash can be diverted to the second combustion unit 111, and a third batch diverted to a third combustion unit 112. While the second and third batches are being processed in the second and third combustion units 111 and 112, a fourth batch of fly ash can be diverted to the first combustion unit 110 after the first batch has been processed and has been directed out of the unit 110 and into the collection line 175.

(p. 11, lines 6-12).

As another example, original claim 33 is directed to a method including at least two processing units. Claim 33 is presented below with claim 31, from which claim 33 depends:

31. A method of reducing the carbon content of fly ash comprising:
diverting a first batch of fly ash to a first processing unit;
processing the first batch of fly ash in the first processing unit;
diverting a second batch of fly ash to a second processing unit;
processing the second batch of fly ash in the second processing unit; and,
collecting the first and second processed batches of fly ash.
33. The method of claim 31, further comprising diverting a third batch of fly ash to the first processing unit before processing of the second batch of fly ash is completed.

Claim 33 clearly contemplates “diverting a third batch of fly ash to a processing unit before processing of the second batch of fly ash is completed”, as recited in pending claim 39. The

Patent Application Serial No.: 10/686,149
Response to Office Action mailed August 30, 2005
Page 7

specification is replete with examples of using a combustion unit as a processing unit (e.g., p. 10, lines 14-15). Claim 33 therefore also clearly contemplates “combusting the third batch in a combustion unit before combusting of the second batch is complete”, as recited in claim 40.

Given that the specification amply supports diverting an unprocessed batch of fly ash to a processing unit, as in claim 39, or a combustion unit, as in claim 40, prior to completing the processing of another batch, it is respectfully submitted that this rejection should be withdrawn.

III. CLAIM REJECTIONS UNDER 35 U.S.C. § 102

Claims 40 and 41 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,992,336 to *Ramme*. This rejection is respectfully traversed.

According to the Office Action, “*Ramme* shows feeding fly ash to a diverter (54, fig. 4)”. However, according to *Ramme*, element 54 on Figure 4 is a splitter, not a diverter. The splitter of *Ramme* is capable only of dividing the flow in half (col. 5, lines 54-55). In contrast, the diverter of the present invention as recited in claims 40 and 41 selectively directs a particular batch to a particular processing unit. Each batch of fly ash “can be composed of predetermined weights or volumes, or can be selected by diverting the flow fly ash to each unit for a predetermined time period” (p. 5, lines 18-20). Thus, the diverter of claims 40 and 41 provides additional functionality as compared with the splitter of *Ramme*.

Further, the Office Action states that *Ramme* teaches “a first combustion unit (57, fig. 4) [and]... a second combustion unit (57, fig. 4)”. However, according to *Ramme*, each element 57 shown on Figure 4 is an injection lance (col. 5, line 36). Each “injection lance 57 enters the furnace 20” (col. 5, lines 37-38). Thus, unlike claims 40 and 41, *Ramme* teaches only a single furnace or combustion unit.

Given that *Ramme* fails to teach or suggest each and every element of claims 40 and 41, *Ramme* is insufficient to support a rejection under 35 U.S.C. §102(b). As such, it is respectfully requested that this rejection be withdrawn.

Patent Application Serial No.: 10/686,149
Response to Office Action mailed August 30, 2005
Page 8

CONCLUSION

In view of the foregoing remarks, Applicants respectfully assert that the rejection of the claims as set forth in the Office Action of August 30, 2005 have been addressed and overcome. Applicants further respectfully assert that all claims (33-41) are in condition for allowance and request that a Notice of Allowance be issued. If issues may be resolved through Examiner's Amendment, or clarified in any manner, a call to the undersigned at (404) 879-2437 is courteously solicited.

Respectfully submitted,



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